CAUSE NO. DC-13-09969

JO N. HOPPER,	§	IN THE DISTRICT COURT
Plaintiff,	§	
	§	
v.	§	44TH JUDICIAL DISTRICT
	§	
LAURA S. WASSMER and	§	
STEPHEN B. HOPPER,	§	
Defendants.	§	DALLAS COUNTY, TEXAS

DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION TO COMPEL DEPOSITION OF CHRISTOPHER MCNEILL

Plaintiff seeks to take the deposition of Defendants' lead trial counsel. Not only is that request needlessly driving up the costs of this litigation, but Plaintiff's Motion to Compel Deposition of Christopher McNeill ("Plaintiff's Motion") is substantively and fatally deficient. Plaintiff's Motion should be denied because the testimony of Defendant Laura S. Wassmer ("Wassmer")—the centerpiece of Plaintiff's Motion—does *not* create a fact issue as to whether Defendants' lawyer Christopher McNeill ("McNeill") lacked authority to send any emails on Defendants' behalf. Nor is there any question of fact as to that issue; indeed, Defendants are not contending that McNeill had authority to send the emails in question. Plaintiff's Motion, therefore, is seeking testimony from Defendants' lead counsel on an issue that is undisputed, and it is merely part of Plaintiff's repeated practice in this case to harass and drive up the costs. The Court should deny it.

Background

Plaintiff is suing, in part, for breach of a contract that is based upon an alleged agreement in certain emails between her counsel and Defendants' counsel. Plaintiff contends that during Wassmer's deposition Wassmer disagreed with her counsel's statement in a certain email sent to Plaintiff's counsel. Plaintiff now moves to compel the deposition of McNeill, who serves as Defendants' lead counsel of record in this lawsuit, as to whether he had authority to send the email in question.

Wassmer's testimony, however, does not reflect what Plaintiff alleges. It is clear that she was not referring to the pertinent email in question. Further, Plaintiff has already has admitted in her response to Defendants' motion for partial summary judgment that Plaintiff has the evidence she needs as to whether McNeill was authorized to make the single communication on which Plaintiff bases her breach of contract claim. Finally, Defendants admit that McNeill was authorized to make the communication in question—precluding any valid need to take McNeill's deposition. Accordingly, Plaintiff's motion to compel should be denied.

Arguments and Authorities

I. Wassmer's Testimony Does Not Create A Fact Issue Warranting The Deposition Of McNeill.

Plaintiff incorrectly describes the deposition testimony of Wassmer in an attempt to create the appearance of a fact issue where none exists. Wassmer's testimony, however, is clear that McNeill had the authority in question:

Q. What specifically did Mr. McNeill say orally or in writing on your behalf that you now claim he was *not* authorized to say?

A. I'm looking at Exhibit 20 where it says, Mr. Jennings, Since JP Morgan has unilaterally taken it upon itself to distribute such assets in undivided interest, my clients are agreeable to dividing the wine and golf clubs per your proposal. *I'm not sure what that proposal included, but if* that proposal included the statements that the wine and the golf clubs would be picked up within five days or three days or within ten days or whatever it seemed like all the strings attached were, I was not aggregable to that at any point in time because logistically that did not work for me living in Kansas City.

Q. Anything else?

A. No.

Exhibit A (pp. 39-40) (emphasis added).

But the date of Exhibit 20 (Exhibit C) that Wassmer was looking at was August 6, 2013. Wassmer had previously seen during Defendant Stephen Hopper's deposition, earlier that same day, Exhibit 22 (Exhibit D), which was an August 20, 2013 draft of a proposed Rule 11 agreement from Plaintiff's then counsel providing Defendants with only three to four days to retrieve the golf

clubs that they wanted or else risk forfeiting them all to Plaintiff. The factual timeline clearly indicates that Wassmer was confused about the chronological order of the exhibits, and given that the correspondence with which she expressed concern *occurred two weeks after* the email she reviewed, resolves any ambiguity or confusion in her testimony which was expressly contingent on what the proposal in fact included. In any event, Plaintiff has not even claimed that this email (Exhibit 20) is the foundation of her breach of contract claim as discussed below—making Wassmer's testimony about Exhibit 20 irrelevant to Plaintiff's claims and undercutting Plaintiff's need to depose McNeill on his authority to send that email.

II. Defendants Do Not Dispute That McNeill Was Authorized To Make The August 13, 2013, Communication On Which Plaintiff Bases Her Breach Of Contract Claim—Precluding Any Need To Take McNeill's Deposition.

Plaintiff's response to Defendants' motion for partial summary judgment makes clear that Plaintiff's entire breach of contract claim is based upon a communication from McNeill to Plaintiff's attorney on August 13, 2013. But Defendants do not dispute that McNeill was authorized to send such communication. Rather, Defendants' position is that such communication constituted neither an acceptance under general doctrines of Texas contract law nor the basis for an enforceable contract under Rule 11—a position that is not dependent upon whether McNeill had the authority to send any email.

The email in question was marked as Exhibit 21 to each Defendant's deposition. *See* Exhibit E. In S. Hopper's deposition, he testified that McNeill was authorized to send that email. *See* Exhibit B (at pp. 68-69). In Wassmer's deposition she testified that McNeill was authorized to send that email. *See* Exhibit A (at p. 43). Plaintiff also has, as attached to her motion, McNeill's affidavit that he had been authorized to convey the information set forth in such email. Thus, there is simply no issue of fact upon which Plaintiff would be entitled to take McNeill's deposition.

Conclusion

Plaintiff is not entitled to take Defendants' trial counsel's deposition. There is no factual dispute as to McNeill's authority, nor do Defendants dispute that fact. Accordingly, Plaintiff's attempt to take McNeill's deposition is harassing, abusive and unduly burdensome, it subjects Defendants to unnecessary expense, and it impugns upon Defendants' privileges and personal and property rights, including without limitation their attorney-client communication and attorney

work product privileges. The Court, therefore, should deny Plaintiff's Motion and grant Defendants all other relief to which they may be entitled.

Dated: March 8, 2016 Respectfully submitted,

K. STEWART LAW, P.C.

/s/ Kelly Stewart
Texas Bar No. 19221600
100 Highland Park Village, Suite 200
Dallas, Texas 75205
Telephone: 972.308.6168
kelly@kstewartlaw.com

with

Christopher M. McNeill Block Garden & McNeill, LLP State Bar No. 24032852 5949 Sherry Lane, Suite 900 Dallas, Texas 75225 Telephone: 214.866.0990 Facsimile: 214.866.0991 mcneill@bgvllp.com

and

Anthony L. Vitullo Fee, Smith, Sharp & Vitullo, LLP State Bar No. 20595500 Three Galleria Tower 13155 Noel Road, Suite 1000 Dallas, Texas 75240 (972) 934-9100 (972) 934-9200 [Facsimile]

ATTORNEYS FOR DEFENDANTS LAURA S. WASSMER AND STEPHEN B. HOPPER

CERTIFICATE OF SERVICE

This is to cer	tify that a true and correct co	opy of the foregoing instrur	nent has been served
upon all counsel of r	ecord in this matter by e-serv	vice on this the 8th day of M	farch 2016.

/s/ Kelly Stewart		
-		

LAURA S. WASSMER - 2/5/2016

1	CAUSE NO. DC-13-09969
2	JO N. HOPPER, § IN THE DISTRICT COURT OF
3	§ Plaintiff, §
	§
4	v. § 44TH JUDICIAL DISTRICT §
5	LAURA S. WASSMER and § STEPHEN B. HOPPER, §
6	\$
7	Defendants. § DALLAS COUNTY, TEXAS
8	
9	
10	ORAL & VIDEOTAPED DEPOSITION OF
10	LAURA S. WASSMER FEBRUARY 5, 2016
11	
12	
13	
14	ORAL & VIDEOTAPED DEPOSITION OF LAURA S. WASSMER,
15	produced as a witness at the instance of the Plaintiff,
16	and duly sworn, was taken in the above-styled and
17	numbered cause on February 5, 2016, from 12:40 p.m. to
18	2:11 p.m., before James M. Shaw, RMR, Certified Shorthand
19	Reporter No. 1694, in and for the State of Texas,
20	reported by computerized stenotype machine at the Law
21	Offices of Fee, Smith, Sharp & Vitullo, LLP, Three
22	Galleria Tower, 13155 Noel Road, Suite 1000, Dallas,
23	Texas 75240, pursuant to the Texas Rules of Civil
24	Procedure and the provisions stated on the record or
25	attached hereto.

- Q. Well, be more specific, please.
- A. So with regard to the Rule 11 agreement, the amount of time that it would take to divide, pick up, transfer assets for wine, golf clubs, household furnishings, anything that was discussed, I was not necessarily in agreement with the time frames that were being discussed.
- Q. What specifically did Mr. McNeill say orally or in writing on your behalf that you now claim he was not authorized to say?
 - A. I -- I don't have it in front of me.
- 12 Q. Well, are you saying this is some -- a
 13 document --
 - A. Yes.

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- Q. -- that he was not authorized to say?
- A. It was discussions between he and Mr. Jennings,
 and I did not necessarily agree with some of the
 discussions that they were having.
- Q. Well, what specifically do you claimMr. McNeill said that he was not authorized to say?
- A. I would have to look at the specific document to tell you. I don't -- I don't know if it's in front of me or not.
 - Q. Well, why don't you look and see, please.

 MR. LOEWINSOHN: Chris, I guess I'm going

to have to depose you before the summary judgment in light of her testimony.

MR. McNEILL: We can talk about that later.

- A. I did not agree with this --
- Q. (BY MR. LOEWINSOHN) Excuse me. If you're looking at a document, tell me which one.
- A. I'm looking at Exhibit 20 where it says,
 Mr. Jennings, Since JP Morgan has unilaterally taken it
 upon itself to distribute such assets in undivided
 interests, my clients are agreeable to dividing the wine
 and golf club collections per your proposal.

I'm not sure what that proposal included, but if that proposal included the statements that the wine and the golf clubs would be picked up within five days or three days or within ten days or whatever it seemed like all the strings attached were, I was not agreeable to that at any point in time because logistically that did not work for me living in Kansas City.

- Q. Anything else?
- A. No.

- Q. Did anyone ever communicate, to your knowledge, orally or in writing to Mrs. Hopper or her attorney that to any extent any statement being made by Mr. McNeill that he was not authorized to make?
- A. I believe that this -- those conversations were

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1
     answer that question?
 2
               On advice of my attorney.
 3
         Q.
               All right. Let's look at Exhibit 18. Have you
     ever seen that document before?
 4
 5
         Α.
               Vaguely.
 6
               Okay. Now, Exhibit 19, have you seen that
         Q.
 7
     document before?
 8
         Α.
               Yes.
 9
               Did you receive a copy of Exhibit 19?
         Q.
10
         Α.
               I don't recall.
11
               Was Mr. McNeill authorized on your behalf to
         Ο.
     send the E-mail marked Exhibit 19?
12
13
         Α.
               I believe so.
               Okay. Now, would you look at Exhibit 20? Have
14
         Ο.
15
     you seen that document before?
16
         Α.
               Yes.
17
               Have you seen Exhibit 21 before?
         Q.
18
         Α.
               I believe so, yes.
19
               And did you see it around the time it was sent?
         Q.
20
         Α.
               I don't recall.
21
               And was Mr. McNeill authorized to send
         Q.
22
     Exhibit 21 on your behalf?
23
         Α.
               I assume so, yes.
24
               Okay. Exhibit 22, have you seen that document
         Q.
25
     before?
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CAUSE NO. DC-13-09969
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     JO N. HOPPER,
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                                      IN THE DISTRICT COURT OF
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               Plaintiff,
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                                  S
 4
                                      44TH JUDICIAL DISTRICT
     v.
                                  S
 5
                                  S
     LAURA S. WASSMER and
     STEPHEN B. HOPPER,
                                  S
 6
                                  S
                                 S
               Defendants.
                                    DALLAS COUNTY, TEXAS
 7
 8
 9
                  ORAL & VIDEOTAPED DEPOSITION OF
10
                         STEPHEN B. HOPPER
                          FEBRUARY 5, 2016
11
12
13
14
          ORAL & VIDEOTAPED DEPOSITION OF STEPHEN B. HOPPER,
15
     produced as a witness at the instance of the Plaintiff,
16
     and duly sworn, was taken in the above-styled and
17
     numbered cause on February 5, 2016, from 9:36 a.m. to
     11:46 a.m., before James M. Shaw, RMR, Certified
18
19
     Shorthand Reporter No. 1694, in and for the State of
20
     Texas, reported by computerized stenotype machine at the
     Law Offices of Fee, Smith, Sharp & Vitullo, LLP, Three
21
22
     Galleria Tower, 13155 Noel Road, Suite 1000, Dallas,
     Texas 75240, pursuant to the Texas Rules of Civil
23
24
     Procedure and the provisions stated on the record or
25
     attached hereto.
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- Q. Let me show you what's been marked as Exhibit 21, and ask if you have seen this document before.
 - A. No, I haven't seen this document.
- Q. You're positive you have -- You are swearing under oath that you have never seen this document before?
 - A. I don't believe I have, no.
- Q. And why are you so sure you've never seen it before, as opposed to don't recall seeing it?
 - A. Okay. I don't recall having seen it.
- Q. Okay. And is there something in it that specifically causes you to say you don't recall seeing it?
- 14 A. No.

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- Q. Well, how is it you remember the prior E-mail dated in the same month that you can testify you saw it, but you're not sure and don't recall ever seeing this document?
- A. Because as I told you, I reviewed all the E-mails and I don't recall having seen this contained in the E-mails that I have.
- Q. Okay. Mr. McNeill was your attorney at the time this Exhibit 21 was sent; correct?
- A. Correct.
- 25 Q. And he would have been authorized to send it on

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1
     your behalf; correct?
 2
               I would have been authorized?
               He would have been authorized to send it on
 3
         Ο.
 4
     your behalf; correct?
 5
         Α.
               Yes.
 6
               And was it a true statement that your lawyer
         Q.
 7
     wrote to Mr. Jennings as of August 13, 2013 that your --
 8
     you being one of his two clients, had selected group A
 9
     for each of the wine and the golf clubs? Was that a true
10
     statement your lawyer made?
11
         Α.
               That is true.
12
                          (Exhibit 22 marked)
13
               Let me show you what's been marked as
         Q.
14
     Exhibit 22, and ask you if you've seen this document
15
     before.
16
               By the way, let me go back for a minute.
17
    believe Exhibit 20 would have been sent to you around the
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     time your lawyer got it, correct, this one that you do
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     remember and you produced?
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         Α.
               I'm sorry?
               Exhibit 20, this one --
21
         Q.
22
         Α.
               Right.
23
               -- you believe you would have received that
         Q.
24
     shortly after your lawyer received it in August 2015?
               I saw the top half.
25
         Α.
```

Christopher McNeill

From:

MMAF13@aol.com

Sent:

Tuesday, August 06, 2013 3:44 PM

To:

Christopher McNeill; janet@erhardjennings.com

Cc:

jjennings@erhardjennings.com; ktomlinson@erhardjennings.com;

mgraham@thegrahamlawfirm.com

Subject:

Re: FROM JAMES JENNINGS - Letter to Chris McNeill

Attachments:

20130806155040.pdf; 20130806155057.pdf

Dear Mr. McNeill:

Attached please find the A/B lists of the wine and golf clubs. These have not changed since they were prepared a couple of years ago. To our knowledge, your clients have been sent these same lists several times, either directly or through counsel.

In any event, here they are again.

Please select and we will draw up an agreement accordingly. There are just a few mechanical decisions regarding removal of the assets, once A or B are selected, that need to be made.

I do know that Mrs. Hopper thinks that the folks at the wine warehouse should handle the mechanics of dividing the bottles to ensure they are safely and properly separated.

After all this is taken care of, we can address the Lufkin issues and see if any agreement can be reached.

Thanks, Jim

In a message dated 8/6/2013 2:41:38 P.M. Central Daylight Time, McNeill@bgvllp.com writes:

Mr. Jennings,

Since JPMorgan has unilaterally taken it upon itself to distribute such assets in undivided interests, my clients are agreeable to dividing the wine and golf club collections per your proposal, subject to preparation of the appropriate documentation (which I anticipate should be very simple). For the sake of clarity, since my clients have received several different versions of the group "A" and "B" listings, could you please distribute the last proposed groupings for the wine and golf club collections so that my clients may review?

Also, what is Mrs. Hopper's desire with respect to the Pollok property and furnishings therein also distributed by JPMorgan In undivided interests? Would Mrs. Hopper be interested in selling her undivided interest therein to the children, or purchasing the children's undivided interests? Or would Mrs. Hopper have an alternative proposal with respect to the maintenance and expenses (taxes, insurance, etc.) with respect to that property?

Best regards,

Christopher M. McNeill

Block & Garden, LLP Sterling Plaza 5949 Sherry Lane, Suite 900 Dallas, TX 75225

Direct: 214-866-0994 Main: 214-866-0990 Facsimile: 214-866-0991

Website: http://www.bgvllp.com Email: mcneill@bgvllp.com Deposition Exhibit

Stephen Hopper - 02/05/2016

From: Janet Elkins [Janet@erhardjennings.com]
Sent: Monday, August 05, 2013 9:46 AM
To: Christopher McNeill
Cc: jjennings@erhardjennings.com; ktomlinson@erhardjennings.com; mmaf13@aol.com; mgraham@thegrahamlawfirm.com
Subject: FROM JAMES JENNINGS - Letter to Chris McNeill

Dear Mr. McNeill,

Please see the attached letter.

Thanks.

Jim

cart #	value	group a	group b	# golf clubs	group a	group b
1	4,484.50	4,484,50		266	266	
2	9,136.50	9,136.50	in the second	393	393	
3	9,162.50	9,162,50		355	355	
4	6,967.50	6,967.50		399	399	
5	22,715.00		22,715.00	261		261
6	17,330.00		17,330.00	443		443
7	7,392.50	7,392.50		343	343	
8	18,350.00		18,350.00	564		564
9	9,989.50	9,989.50		311	311	
10	5,740.00	\$ 519 F 26 B 1996	5,740.00	152		152
11	28,397.00		28,397.00	370		370
12	8,157.50		8,157.50	388		388
13	18,745.00	18,745.00		376	376	500
14	16,917.00	16,917.00		382	382	
16	13,465.00	10,917.00	13,465.00	334	302	224
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17	41,985.50	41,985.50	The Late A	361	361	4.00
18	12,385.00		12,385.00	160		160
22	14,140.00	14,140.00		417	417	
40/42	4,374.50		4,374.50	243		243
44/46	8,322.00		8,322.00	246		246
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Tin.15	40.00	40		0.00		
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Tin. 17	40.00	40		0.00		
Tin.18	40.00		40	0.00		
Tin. 19	40.00	40		0.00		
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12	1980 Chappellet		Napa	Saur.	750 ml		\$55.00	\$660.00	9	\$330.00	10	\$330,00	۵
'n	1983 Haut Brion Gra.	Graves	Bordeaux	Blend	750 mf		\$233.00	\$1,165.00	8	\$466.00	et e	\$699.00	0
-	1964 Chateau Branaire	St-Jullen	Bordeaux	Blend	750 ml	All very high shoulder/ law neck	\$95.00	\$95.00	0	\$0.00	•	\$95.00	o
12	1982 d'Estaumel 1975 Chateau d' Yquem	St-Estepha Sautemes Lur Saluces	Bordeaux Bordeaux	Blend Semillan	750 ml		\$384.00	\$4,608.00	•	\$2,304.00	13 E	\$2,304.00	00
m	Chateau Dolsy- 1983 Daene	Barsac	Bordeaux	Semillon	750 mt	1 shows old leak, 2 good	\$130.00	\$390.00		\$130.00		\$260.00	
4	1982 Beaucailled	St. Julien	Bordeaux	Blend	750 ml		\$379,00	\$1,516.00	**	\$758.00		\$758,00	٥
7	1985 Brion	Classe	Bordeaux	Blend	750 mJ		\$490.00	\$980.00	-	\$490.00	-	\$490.00	0
v	1989 Consellante	Pomerol	Bordeaux	Blend	750 ml		\$360.00	\$2,160.00	***	\$1,080.00	M	\$1,080,00	
ced	Chateau Lafite- 1981 Rothschild	Paulillac	Bordeaux	Blend	750 ml		\$859.00	\$859.00	0	\$0.00	**	\$859.00	0
	1964 Rothschild	Paulbac	Bordeaux	Blend	750 m²	fill very trigh shoulder	\$498.00	\$498.00	œ	\$0.00	-	\$498.00	0
•	1980 Rathschild	Psuillac	Bordeaux	Blend	750 ml		\$798.00	\$798.00	-	\$798.00		\$0.00	0
,-	1964 Chateau Latour	Pauillac	Bordeaux	Biend	750 mt	"Merry Christmas Dad - Steve and Barbara"	£780.00	6780 190		4780 DO		5 6	1 0
12	Chateau Leoville 1982 Barton	Saint-Jullen	Bordeaux	Blend	750 ml		\$250.00	\$3.000.00		\$1.500.00	b 14	41 500 an	•
12	Chateau Leoville 1982 Las Cases		Bordeaux	Blend	750 ml		\$561.00	\$6,732.00		\$3,366.00		\$3.366.00	
	1959 Chateau Margaux 1950 Chateau Margaux	Margaux Margaux	Bordeaux Bordeaux	Blend	750 ml	fill high shoulder	\$1,650.00	\$1,650.00	⇔ €	\$1,650.00	0	\$0.00	00
-	1986 Chateau Margaux		Bordeaux	Blend	750 ml	Steve 11/4/89 written	\$450.00	\$450.00	, -	\$450.00	• 6	\$0.00	
21	Chateau 1985 Montelena	Estate	Naba	Selection of the select	750 m		4177 An	42 D64 00	,	61 623	•	00 00	
m	Chateau 1978 Montelena	Estate 1882-1982 Centennial	e ue N	G &	150 m			20.00.00	•	20,000,00	я	*1,032.00	
7	Chateau 1985 Montelena		KUEN	<i>i</i>	250 101		00:nLyt	00.0274		00.0626	<i>p</i>	\$480.00	0 1
-	Chatesu Mouton- 1980 Rothschild	Paulifac	Bordeaux	Blend	750 ml	low neck fill	\$308.00	\$308.00	- -	\$0.62.00	+4 p	00.621\$	9 6
-	Chateau Mouton- 1970 Rothschild	Paulfac	Bordeaux	Blend	750 m	mid shoulder fill	4350.00	6350.00		00 0369	• •	90 00	
9	1982 Chateau Palmer	Margaux	Bordeaux	Blend	750 ml		\$352.00	\$2,112.00	• "	\$1,056.00	J -11	\$1,056.00	
~	1979 Chateau Petrus	Pomerol	Bordeaux	Merlot	750 ml		\$1,250.00	\$2,500.00	-	\$1,250,00	7	\$1,250,00	0

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\$4,000.00	\$0.00		\$1,908.00	\$93.00	\$0.00	\$70.00	\$750.00	40 60	DO:D¢	\$150.00	\$240.00	\$0.00	00 1114		\$597.00	\$0.00	\$147.00	\$330.00	U U U V	4530.00		\$0.00	\$135.00	\$0.00	\$300.00	\$450.00	90 05 +	220 00	00:073	\$267.00	\$258.00
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portional value section \$2,000.00 \$6,0	slight stain on label		poom buo	dessert wine	dessert wine	dessert wine	dessert Gitt bes w/ retners in cut	Corts rope Chotsers/authorizothed		poom Buo										fill is low neck				propably bad			Justin Meyer autograph is valuable				
1000	750 mf		750 ml	750 EE	750 75	150 m	750 ml	750 m		750 ml	750 ml	750 ml	750 m)		750 mJ	750 ml	750 ml		III OC	750 ml	750 mt	750 ml	750 ml	750 m		750 ml	750 ml				
TEREST.	Merlot		Blend	Semillon	Semilion	Seminon	Semillon	Blend	Ç.	Sauv.	Sac.	Cab. Sauv.	Cab.	Cab.	Sark	Sauv.	Cab. Sauv.	Cab. Saux.	Cab. Sauv.	Pinot Nair	Cab.	3	Chardonn	A A	Sage	Blend	Cab. Saux.	Cab.	Cab.	Sauv. Cab.	Sauv.
to to to to to	Bordeaux		Bordeaux		Dordeaux	Dorneaux	Saucemes	Champagne		Napa	Napa	Napa	Napa	. ;	Repa	Napa	Napa	Napa	Napa	Burgundy	Kana		nepa	Napa	5000ma	Duoro, PT	Napa	Napa		Mapa	Napa
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The Chairma repus	1983 Chateau Petrus	Longueville Comtesse de	1982 takede	Sat Chalese Areasac	1978 Chateau Diamen		Comte Audeio de	1990 Dampierre		1985 Diamond Creek	1977 Diamond Creek	1978 Diamond Creek	1985 Diamond Creek	1070	1970 Didmond Creek	1977 Diamond Greek	1965 Diamond Creek	1978 Diamond Creek	1977 Diamond Creek	Domaine de la 1981 Romanee-Conti	1982 Dunn Vinevards	1985 Duna Winewards		1981 Far Niente	1991 Fisher Vineyards	1968 Fonseca	Franciscan 1977 Vineyards	1981 Girard		1980 Heitz Cellars	1978 Heitz Cellars
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1979 Heltz Ceilars	1980 Heltz Cellars	1983 Heitz Cellars	1975 Heltz Ceilars	1968 Heltz Cellars	1978 Inglenoak	1978 Jordan	Joseph Phelps	1979 Vineyards Joseph Phelos	1980 Vineyards	1977 Vineyards	Joseph Phelps 1980 Vineyards	Joseph Phelps	1979 Vineyards 1976 Krug	1000 Lands Callans	TOTAL CENTER	1976 Louis M Martini	1976 Moet & Chandon	:	1988 Moet & Chandon	1978 Moet at Chandon	1980 Mebaum-Coppola	1980 Onus One	1981 Opus One	1982 Opus One	1983 Opus One	1984 Opus One	1986 Opus One	1940 Upus One	1969 Omis One	1991 Opus One	1996 Opus One	1991 Opus One	1985 Opus One
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1979 Perrier-Jouet	Reserve de la 1983 Comtasse	1985 Robert Mondayi	Robert Mondayl 1978 Winery	Robert Mondavi	1974 Winery Robert Mondavi	1978 Winery	Robert Mondayi	1984 Rutherford Hill	1986 Silver Oak	1979 Sliver Oak	1 VERTICAL Silver Gak	7.0	1979 Silver Uak	1982 Silver Oak	1993 Silver Oak	2002 Silver Oak	1975 Silver Oak	2000 Silver Oak	1990 Silver Oak	1985 Silver Oak	1978 Silver Dak		Wiffied	k Wilfried	IIIH WENTH HILL	
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				Poor Vintage		engraved AA 100 wagons	•						private cellar of Graf (Duke)	Scheverin'sche		very good vintage	1		low fill, puldized		Magnum Autographed by	Winery Owner	very good vintage			•	fill low neck slight
750 ml	750 ml	750 ml	750 ml		750 ml	750 mt	750 ml	750 m²	750 ml	750 ml	750 ml	750 ml		350 ml	750 ml	750 ml	750 ml	750 때	750 ml	750 mi		1.51	750 ml	750 ml	375 ml	750 ml	Î
Sauv.	Chardonn ay	Chardonn	Malbec	Pinot Notr	Gamecha	Chandonn ay	Cab. Sauv.	Cab.	Blend	Sarv.	Saley Saley	Cab. Sauv.		Riesting	Sangio. Brunello	Riesling	Monastrel 750 ml	Cab. Sauv.	Chardonn ay	Cab. Sauv.	Š	Sauv.	Thurgan	Maibec	Riesling	Sauv.	Ġ.
	Argenda	Acception	Argentina	Burgundy	Spain	Nepa	Napa	Napa	Napa	Napa	Sonoma	Боло та	Rheinhessen	, DE	Tuscany, IT	Germany	Jumilla, Spain	Sonoma Val.	Napa	edeN edeN		Napa	Germany	Argentina	Canada	Napa	404
Napa Valley-Mt Veeder Napa Valley				Gevrey-Chambertin		Beaufort	Beautour	Centennial 1900-2000	Tapestry Reserve	Estate	Knights Valley	Knights Valley	Rlesting Eiswein -	dessert wine	Brunello di Montalcino Il Greppo	Endener Trepponen Spattese	Altos de la Hoya		Vintage Selection	Vintage Selection			Kabinett Franken	Manage Benjamin	Estate Icewine	Estate	Republic
1980 William Hill	2008 Alamos	2007 Alamos	2008 Alamos	1977 Alexis Lichina	2007 Altovinum	1991 Beautieu Vineyard	1991 Beaulieu Vineyard	1997 Beautier Vineyard	2001 Beaufieu Vineyard	1973 Beaukeu Vineyards Estate	1986 Beringer	1982 Beringer	Binger Rudesheimer	1969 Rosengarten	1982 Blondi-Sant	bischoniches 1983 Priesterseminar	2007 Bodegas Olivares	1980 Buena Vista	1977 Burgess	1974 Burgess Vintage Selecti 2003 Caldwell Vinevants Flame Jumper		1983 Cassayre-Forni	1983 Casteller Bausch	2007 Catena	1991 Cellars	1988 Caymus Vineyard	1982 Cavmus Ulcavard
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NV Roederer	1974 Chappellet	1990 Charles Heldsieck	Chat. Baron de	1989 Pichon-Longuev. Chat. Mouton-	1978 Baronne-Philippe	1983 Chateau Bouchaine Los Cameros	1983 Chateau Bouchaine Los Cameros	Chateau Brane.	1992 Chateau d' Etmys		1986 Chateau Dassault Chateau Grand-	1973 Puy-Lascoste	L974 Larose	Chateau La Roche	1970 Chateau Lagrange	Chateau Larose-	Chateau	1973 Lascombes	Chateau Lynch- 1996 Bages	Chateau	Chateau	1974 Montelena	L989 Montelena	Chateau Saint 1990 Estephe		2001 Chateau Souverain Dry Creek Valley Alexander Valley	1981 Chateau Sr Jean		1974 Chateau St Jean Chateau Tour de	1995 Goupin	2007 Clos de los Siete
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sonome Co. Meriol 750 ml \$15.00 \$1							alManottanan	autographed "To Max-David Free"												engraved gift - Sterling Hotel Group	Magnum				
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Sprome Co.	Alexander Val.	Burgundy	Chile	8	Chile	1	California	South Africa	Pessac-	Pessac-	Cotes du Gasc.	Alsace	Burgundy	Oregon	Anderson Val.	Napa	Ниодагу	Napa	Burgundy	Napa	Napa North Coast	Napa	Napa	Napa	
	Proprietor's Reserve	Gevray-Chambertin Casslero del Diablo	Reserve	Marques de Casa Concha	Casillero del Díablo Reserve	Marques de Casa Concha	Old Dog Red		Graves	Graves		Herrenweg	Puligny-Montrachet	Jensalem Hill	Broken Leg Vineyard	Three Palms Vineyard			Hercurey Les Mauvarennes				Cabernet Bosche	Cabemet Bosche	
1994 Cos du Bois	1978 Clos du Bois	1990 Clos Prieur	2008 Concha y Toro	2004 Concha y Toro	2008 Conche y Toro	2007 Concho y Toro	David Bruce NV Winery	1997 David Frost Wines	Domaine de 1988 Chevalier	Domaine De 1988 Chevalier	2008 Domaine De Pouy	2004 Domaine Ehrhart	1979 Domaine Leftaive	Domaine Serene 2004 Vin. & Win.	2006 Drew	Duckhom 1989 Vineyards	Egri Bikaver 1997 (Bulf's Blood)	1980 Estancia	1991 Faiveley	1989 Far Nienle	1992 Far Niente 1997 Faration	Franciscan 1980 Vineyards	1978 Freemark Abbey	1972 Freemark Abbey	
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		dessert					dessert		Double Magnum						dessert	private bottling for gifts									oxidized		very good vintage	Memorabilia Value Onfv			dessert
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Zinfandel 750 ml		Semillon Cab.	Sauv. Zinfandel	<u>ئ</u> ئۇ	Gewurztra	miner	Semillon		Sauy.	S S S S S S S S		Aligote	2 CP 2 CP 2 CP 2 CP	Johannis.		Sylenysh raz	Chardonn		A C		Phot Notr 750 ml	Cab	Sauv.	Sauv.	Chardonn 97		Riesling	Sale.		2 PINITOS	Semilion
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Haple Vineyard - Tina's Block	Classic Dessert	Serviton	Estate	Vintage Reserve	Handley Cellars	Anderson Valilley Cameros	Autumn Harvest Botrylis Affected	Honig Est Napa Valley Cabernet Sauvionon	54	Estate Seven Oaks	Cotes Du Rhone	Bourgogne Aligote	Estate		Late Harvest	Blue Fin	Cuvee Cathleen	Hudson Vineyard	Cameros	Kistler Vineyard			Howell Mountain			Elviller Soonenberg	Kabinett	Rusty Staub's Le Grand Drange Reserve		Goffith-Padthawny	Botryds Semillon
2001 Gary Farrell		1982 Girard	1984 Girard 1981 Grolch Hills	Gundlech-Burschu 135m 1983 Anne Ann 6140476 V		2006 Handley Cellars 1992 Havens	1986 Hill-Smith Estate	Haniq Est Cab	1998 Sauv 94	1996 J. Lohr	2005 J. Vidal-Fleury	2003 Jayer-Gilles	1983 Jordan	Joseph Phelps	1982 Vineyards	2004 Kenneth-Crawford Blue Fin	2000 Kistler		2000 Kistler	2000 Kistler	2000 Kistler Vineyards	La Jota Vinevard	1989 Co	1985 Montagne	1976 Lambert Bridge	Landgraflich	1983 Weingut	Le Grand Orange 1992 Cellars	Leckie's She-Oak	HILL EGGT	1988 Lindemans
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	Chile	Burgundy	Sanoma	Sonoma		Rioja, Spain		Mosel, DE	:	Napa	Sonoma Co.		New Zealand	Bordeaux	- company		Champagne	Champagne	Napa		Rhine, DE		Napa	Спатрадне	California	100		Amartor		Napa		napa	Napa		edeN	Sonoma		Napa
		Beserve des Jacobins	Russian River Valley	Valley Vista Vineyard Private Reserve		Rioja Crianza		Kabinett		Silhouette	Dry Creek Valley	Imperial	Mariborough	Pauillac	Brut Reserve	Cuvee Palmes d'Or	Brut	Cuvee Speciale Brut		Uebfraumilch	Madonna Beerenausiese		Andrus Reserve	orut Keserve speciale	Elystum Dessert Wine	Constant Passes	ESSENSIG DESSEIT WING	Froils								Reserve	Blanc de Noirs Brut	Sparkling
	2007 Los Vascos	Louis Jadot	1993 Lynmar Winery	1981 Lytton Springs	Marques de	2005 Caceres	Grunhauser	2004 Abisberg	1000 11-11-11-1	Mill Creek	1979 Vineyards	Moet & Chandon	2008 Moma	1991 Houlin de Duhart	Nicolas FeuiNatte		1990 Nicolas Feuillatte	1960 AKONAS PEUMBICE	1980 Osprey Vintners		2003 P J Valckenberg		1985 Pine Ridge	1313 FUI ROSE	1984 Quady	1984 Outdoor	1983 Ravenswood	1981 Ridge	Robert Mondayi	1974 Winery	Robert Mondayi	Dobbert Monday	1987 Winery	Robert Mondayi	1996 Winery	2001 Rodney Strong		2001 Schrämsburg
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Cab.		Magnum			:	Мадпит		low neck												single bil prices:	\$285	questionable	may be too old	not great wine		oxidized		oxidized, signed	Doc and Joan Swalwell			plo
12 17 17 17	750 ml	1.5 L	750 ml	750 ml		1.5 L	750 ml	750 ml	750 ml		750 ml	750 m	750 ml	750 ml		750 ml	750 ml 750 ml	750 ml			750 ml	750 ml		1.5 L	750 ml	750 ml	750 ml		750 ml	1	III OC/	750 ml
5	Sauv.	Merlot	Cab. Sauv.	Chardonn	Ġ	Sage.	Sauv.	Cab. Sauv.	Sauvigno n Blanc	ġ	Sauv.	Shinz	Blend	Blend	Tempranill	•	Pinot Noir Blend	Riesing		Chardono	βλ	Cat. Sauv.	Chardonn	Λo	Maibec	Plnot Grigio	Chardonn		Chardonn ay	Chardonn	ay Inhannie	Rest.
	Napa	Napa	Napa	Napa		Napa	Santa Luda Highlanda	Mapa	New Zealand		Napa			Champagne		Spain	Russian River V Sonoma Co.	Germany			Cameros	Hungary		France		Alto Adige, IT	California	į	acles		Sonoma	Country
		napa valley sugs Leap District	Stags Leap District Hillside Select						Marlborough	ı	Artemis La Française Brut		Brut Yellow Label	La Grande Dame Brut		Noera del Cuero		Ockfener Scharzberg Kabinett			Sangiacomo Vineyard	Estate Bottle Oriahovitza Vineyards							Estate	Goldman Sachs		
	1982 Sequola Grove	1995 Shafer Vineyards	1985 Shafer Vineyards	1989 Shafer Vineyards	1070 Chama a range	19/8 SHOWN & SONS	2001 Smith & Hook	1977 Spring Mountain	2008 Spy Valley		2003 Stag's Leap Winery Artemis Taltimoer	1980 Taltarni	NV Veuve Cicquot	1988 Ponsardin	1006 1000000	PLIPTZIA GRAZ	1989 William Selyem 1992 Windsor Vineyards	Winzerverein Irach 1983 - Ockfen			1999 Acacla	1985 Balkan Crest		2004 Barton & Guestier Bodega y Cavas de	1983 Weinert	1985 Bolla	1993 Canyon Road		1985 Chalone Vineyards Estate	NN Chateau Goldman		1982 Chateau St Jean
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Val. ay 750 ml oxidized \$0.00				questionable	3 leaking - bad when 1st released		very questionable	pood	- oak too heavy		stained label, shoulder fill, lasting cadiment	The second second	oxidized	;	Questionable dessert				autographed by	owner	oxidized		oxidized	oxidized				oxidized, low filt	
750 ml	187 ml	187ml	187ml	750 ml	750 ml	Ī	E 05/	750 ml	750 ml	750 ml 750 ml	750 25		750 m	750 ml	375 ml	Ten mit	187 ml	750 ml		750 ml	750 ml		750 mi	750 ml	375 ml	750 ml	750 ml	750 ml	750 037
av.	Chardonn	Chardonn	Sales.	Charteonin	Cab.	Chardonn	ay Chardonn	à	ay ay	Viognier Gamay	É	Chardonn	à í	Sauv.	Riesling	6.05 2.05 2.05 2.05 2.05 2.05 2.05 2.05 2		Johannis. Riesl.	Johanok	Riest.	Charoonn ay	Chardonn	ay Chardonn	χď	White	58.0. Saux.	Cab. Sauv.	Sauvig. Blanc	Chardonn
Vai.			California	Sonoma	California		Monterey	Sonoma	Napa	Rhone Burgundy	Remaindo	Anderson	V81.	Coast	Monterey	Monhama		Lake County		Texas	Napa	. ;	Napa	Nepa	Bordeaux	Napa	North Coast	Napa	guemog
Calcaire	Fairmont Hotel	Fairmont Hotel	Fairmont Hotel	Dry Creek Valley	Limited Release - 1st eoo release			Coach Insignla		Condrieu Beaujolais Nouveau	Beaufolais-Villages			Vintage Select	Late Harvest	Private Receous	Sparkling Wine				Corley Vineyard		Corley Vineyard						Murfatter Benton
1979 Clos du Bols	1987 Coastal Vintners	1985 Coastal Vintners	1983 Coastal Vintners	1993 Winery	Ernest & Julio 1978 Gallo	1090 Estant	1909 ENGINDS	1993 Fisher Flora Sorings Wise	1984 Co	1984 George Vernay 1999 Georges Dubaeuf	1986 Georges Duboeuf		Tage Highlian	1994 Ivan Tamas	1981 Jekel Vineyard	1978 Jekel Vinevand	NV Kriter	Les Chenes 1982 Vineyards		1996 Messina Hof	1984 Monticello Cellars		1964 Monucello Cellars	1983 Manticello Cellars	1990 Mouton Cadet	1980 Winery	1986 Napa Ridge	1984 Palisades	1989 Premiat
7	••	-	-		Ŋ	-	4	m	g		-	-	•		-	2	-	1			2	,	7	12	-	v	-	-	æ
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			Cuvee	California	Blend	750 ml		\$0.00	80.00	•	90.00		50 00	•
		Raoul Johnston	Paulliac (Mis en bouteille par Ragul							,		-	20.24	•
		1995 (Private Label)	Johnston)	Sordeaux	Blend Chardonn	750 ml		\$20.00	\$20.00	-	\$20.06	0	\$0.00	0
328 C		1984 Rapazzini NV Rex Gollath	Special Reserve	Gilroy, CA California	ay 750 ml	750 ml	oxidized	\$0.00	\$0.00	9	\$0.00	_	\$0.00	0
		Robert Keenan			Chardonn	130		*2.00	\$2.00	-	\$2.00	Þ	00.00	0
330	-	1985 Winery	Valooficella Classion	Napa	λq	750 mg		\$0.00	\$0.00	0	\$0.00	1	\$0.00	0
331		1976 Ruffino	Superiore	Veneto, Italy	Blend	750 ml	fill low neck	\$2.00	\$2.00	-	\$2.00	5	\$0.00	0
332 C		1985 Saintsbury		Cameros	Characenta ay	750 ml		\$0.00	\$0.00	-	\$0.00	ri	20.00	0
	•				Chardonn		low fill, cloudy,oxidized,					ı		,
	m	1977 Sanford & Benedict	#	California	ay Chamboo	750 ml	tom label	\$0.00	\$0.00	7	\$0.00		\$0.00	0
334 C		1984 Sarah's Vineyard	Ventana	Santa Clara		750 ml	oxidized	\$0.00	\$0.00	9	\$0.00		\$0.00	0
335 C		1986 Beauty		California	Pinat Noir 750 mil	750 ml		\$2.00	\$2.00	•	\$2.00		\$0.00	0
336 C		1983 Sequola Grove	State	Cameros	Chardonn	250 m	pation	9	0000	,	9			•
	•	Shadow Creek						200	00.00	9	on:n¢	~	¥0.0¢	
<u> </u>		1984 Orinda Silverado Hill	Stag's Leap Wildwood	Napa	Sauv.	750 ml		\$10.00	\$10.00		\$10.00	6	\$0.00	0
338 C		1994 Cellars		Napa		750 ml		\$3.00	\$3.00	0	\$0.00	14	\$3.00	0
339 C		St Clements 1981 Vinevard		400	агфопл	Ī								
	,	St Clements		Poloni	Chardonn	III 06/		\$0.00	\$0.00	-	\$0.00	¬	\$0.00	0
ر الإو	-	1982 Vineyard		Napa	À	750 ml		\$0.00	\$0.00	-	\$0.00	6	\$0.00	0
341 C		1983		Napa	Chardonn ay	750 ml		\$0.00	\$0.00	-	\$0.00		\$0.00	0
342 C		The Christian 1978 Brothers	Johannisberg Riesling Gewurztraminer	Nan	Bland	750 ml		90.0	900					
_							Lot 350 Mapa	*****	\$0.00	0	\$0.0¢	-	20.05	-
Ç Ç	4	The Christian 1981 Brothers	Hont La Salle	Napa	Pinot St. George	750 ml	Valley Wine Auction 1984	\$0.00	\$0.00	~	\$0.00	**	\$0.00	0
ildile		NV The Harvey Hotels	Meserve Kouge Lo 7 Jardinet	Bulk	Blend	750 ml		\$0.00	\$0.00	-+	\$0.00	U	\$0.00	0
7 <u>7</u>		2004 Winery	Skyline	Santa Cruz	Blend	750 ml		\$0.00	\$0.00	٩	\$0.00	•	\$0.00	0
	0	2004 Tieffenbruner	Alto Adioe	भूषा	Pinot	750 ml		¢2 00	43.00		42.00		6	•
			Special Selection	Santa Ynez	Johannis.				44.00	-	\$4.00	D	00.04	•
D F		1982 Vega Vineyards	Estate	Val.	Riesi,	750 ml		\$0.00	\$0.00	0	\$0.00	7	\$0.00	0
- RA	C 1	2004 Ranch	Private Reserve	Sanama Co.	-	750 m		\$2.00	\$2.00	**	\$2.00		\$0.00	0
		1981 William Hill	Mt Vander	Mana Mallan		Î		6				,		
				rope vancy	Chardon	m ne/		\$7.00	222.00	m	\$10.00	u-	\$12.00	0
		2006 Yellow Tail		Austrolia	λo	750 ml		\$8.00	\$6.00	0	\$0.00	++	\$8.00	Page D3 of



EXHIBIT D TO DEFENDANTS' RESPONSE

Christopher McNeill

From:

Janet Elkins <janet@erhardjennings.com>

Sent:

Tuesday, August 20, 2013 10:04 AM

To:

Christopher McNeill

Cc:

jjennings@erhardjennings.com; ktomlinson@erhardjennings.com;

mgraham@thegrahamlawfirm.com; mmaf13@aol.com

Subject:

FROM JAMES JENNINGS - Hopper - Letter to Chris McNeill

Attachments:

Ltr to McNeill 082013.pdf

Dear Chris,

Attached please find a form of Rule 11 that I think meets the parameters of our discussion yesterday. Our client has approved it. As discussed, I am supposed to be getting the keys to the warehouse from the IA sometime today. Once you have signed the Rule 11 and returned it to me (with the schedules attached), I will in turn sign off and re-email the entire document to you.

Assuming that is accomplished today, we need to visit immediately about scheduling a time for you to come out and familiarize yourself with the Group "A" clubs before Friday.

Let me hear from you, and of course if you have any comments or questions about the Rule 11, I am available this morning to discuss until about 11:30.

Thanks.

Jim

Deposition Exhibit

22

Stephen Hopper - 02/05/2016

ERHARD & JENNINGS

A PROFESSIONAL CORPORATION

ATTORNEYS AND COUNSELORS AT LAW

DALLAS OFFICE: (214)720-4001 Phone (214)871-1655 Fax

THANKSGIVING TOWER 1601 ELM STREET, SUITE 4242 DALLAS, TEXAS 75201

jjennings@erhardjennings.com or jajennings@aol.com

JAMES ALBERT JENNINGS BOARD CERTIFIED LABOR AND EMPLOYMENT LAW TEXAS BOARD OF LEGAL SPECIALIZATION

August 20, 2013

Via email mcneill@bgvllp.com Mr. Christopher M. McNeill Block & Garden, LLP Sterling Plaza 5949 Sherry Lane, Suite 900 Dallas, Texas 75225

> RE: Hopper Estate (the "Estate") [Cause No. PR-10-1517-3]/Rule 11 Agreement Regarding: Assets Previously Released to the Parties in Undivided Interests from the Independent Administrator, and then, Division, Delivery and Disposition of Ownership of Certain Assets Previously Held in Undivided Shares

Dear Mr. McNeill:

Pursuant to our conversations, we have jointly prepared, drafted and agreed upon this Rule 11 Agreement and Letter of Instruction regarding the assets identified in the attached Schedules 1(the wine) and 2 (the golf clubs/putters) - collectively, the "Assets". On behalf of our respective clients (yours being the "Heirs" and ours being Mrs. Hopper), this Rule 11 Agreement will serve to confirm the following:

- 1. After release, in undivided interests, of these Assets from the IA to the Parties on or about July 31, 2013, this Agreement accomplishes the terms of the physical pick-up and disposition of the Assets listed on Schedules 1 and 2 hereto (no other assets are affected by this Agreement, directly or by implication); and
- 2. The timeframe and conditions under which the pick-up and physical division of the previously-released Assets must be accomplished as between our respective clients.

Attached as Schedule "1" is the division into two Groups ("A" and "B") regarding the wine presently stored at 525 S. Nolen, Suite 200, Southlake, Texas 76092, (Classic Wine Storage

129 Lakeside Drive

EAST TEXAS OFFICE (ATHENS AREA) Malakoff, Texas 75148

(469) 688-9675

Mr. Christopher M. McNeill August 20, 2013 Page 2

& Services – "Classic"). Attached as Schedule "2" is the division into two Groups ("A" and "B") regarding the golf club/putters and storage racks for same, stored presently in the leased warchouse (in and at 13650 TI Blvd., Suite 305, Dallas, Texas – Richardson Commerce Centre – "TI Blvd.") used for that purpose.

As to Schedule "1", the wine, your clients have selected the wine in Group "A" as your clients' sole and separate property henceforth and thus our client, Mrs. Hopper, is to receive the wine in Group B as her sole and separate property henceforth. As part of this Agreement, your clients agree to remove (or have removed) the wine from its present storage at Classic within the next five (5) days from the Execution Date hereof, at your clients' sole expense. Mrs. Hopper will either remove her wine (Group "B") at her expense or make other arrangements with Classic as to her wine. After execution hereof, neither side will have any further claim, ownership interest (legal or equitable) in the jointly owned property hereby divided.

The wine will be separated by Mark at Classic into the two Groups for pick-up. The parties understand he charges in the range of \$40.00 per hour for his services, and his bill for the division of the wine will be split equally between the Heirs and Mrs. Hopper and paid immediately upon receipt. Mark needs some advance warning of the pick-up dates(s) – so as, Mrs. Hopper is authorized to order Mark to begin the wine division between Group "A" and "B", and to assist in that process has or will forward him Schedule "1" attached hereto. Any costs as to the actual wine pick-up, or use of Classic personnel for that pick-up purpose, are to be borne solely by the party incurring same.

The parties acknowledge that Mrs. Hopper hereby releases her 1/3 interest as Assigned (by the IA) in certain bottles of wine that were Max Hopper's separate property. Those bottles are already included as part of the bottles selected in Group "A" and Mrs. Hopper's interest is voluntarily relinquished hereby in favor of the Heirs.

As to the golf clubs, etc., on Schedule "2", your clients have selected the clubs and racks set forth in Group "A", leaving Mrs. Hopper with sole ownership of Group "B". As you know, the clubs/putters are stored in TI Blvd. Your clients will come on either (or both), Friday and Saturday, August 23rd and 24th, to review the clubs and exhibit them to one or more charities for possible donation. They will also at that time, take, if they choose, some of their clubs with them. If a charity wishes to take the remainder of the Heirs clubs, it will contact James Jennings by Monday, August 26th, and work out a date and time to do so and accomplish the pick-up of the clubs before August 31, 2013. If not picked up before August 31, 2013, then all Group "A" clubs remaining at TI Blvd. after Saturday, August 24th, will become the sole property of Mrs. Hopper. Mrs. Hopper can also go get her clubs at any time. The parties agree that Mrs. Hopper (or her representative) will meet you (Mr. McNeill) at TI Blvd. before this coming Friday to be sure the racks and clubs to be taken by the Heirs are properly identified as "Group A" (the racks are already labeled). Neither your clients nor any charity will remove any clubs from "Group B". Absent an event of force majeure, if your clients charity does not pick up

Mr. Christopher M. McNeill August 20, 2013 Page 3

its "Group A" clubs by August 31st, all un-removed/picked-up items are the sole property of Mrs. Hopper henceforth. The parties understand and agree that Mrs. Hopper may choose to continue to lease at the TI Blvd. warehouse. If she does so, the Heirs will have no further ownership or other obligations or interests whatsoever regarding the warehouse, the lease or any of its contents, hereafter.

There is certain other miscellaneous property (former community) at TI Blvd. If during the time the Heirs are inspecting the golf clubs on August 23rd and/or 24th, they review some of the miscellaneous property and determine that there is something from that group of items that they want, they will through Mr. McNeill, contact Mr. Jennings and the parties work in good faith to see if they can agree upon an appropriate division of any such item or items. Absent such an agreement between the Heirs and Mrs. Hopper, all other miscellaneous property stored at TI Blvd. (including any clubs that the Heirs might choose to leave behind), after the Heirs finish whatever removal of Group "A" clubs they wish, shall be and hereby is solely that of Mrs. Jo N. Hopper.

The parties also agree hereby that no further documents or *indicia* of title are necessary to effectuate this delivery, division and separated ownership of the already-delivered Assets agreed hereby, which is self-executing upon execution hereof by you for the Heirs and me for Mrs. Hopper.

The parties further agree that Mrs. Jo N. Hopper, through her representatives, is permitted to contact the IA (and inform them of this Rule 11) to obtain any permission necessary to open TI Blvd. and get permission from Classic to allow for removal of the items and assist in coordination. As such, the Heirs, or their representative, will coordinate through Mrs. Hopper (through her representative(s)) to accomplish any such "unlocking" necessary to effectuate the removal of Group "A" from TI Blvd.

The term "Execution Date" shall mean the date on which this Agreement is executed by the second person to sign of Mrs. Jo Hopper (through her attorneys) and your clients (through your signature).

TIME IS OF THE ESSENCE

If the above accurately reflects the agreement between the parties as mutually drafted and agreed by you and us, please sign below and return to our offices so that we may file this Agreement with the Court as a Rule 11 Agreement pursuant to the Texas Rules of Civil Procedure. The parties further agree this Rule 11 need not be filed to be effective and is effective upon signature of both our client and your clients, through their respective attorneys (i.e., the Execution Date).

Mr. Christopher M. McNeill August 20, 2013 Page 4 The parties agree a facsimile or email signature hereto is the equivalent of an original for all purposes. We look forward to a prompt pick-up of the Assets by your clients (or their representatives), at their earliest convenience. James Albert Jennings JAJ:je enclosure Client Cc: Michael Graham AGREED TO: James Albert Jennings, attorney on behalf Christopher M. McNeill, attorney on behalf of Heirs Laura S. Wassmer and Stephen B. Hopper of Mrs. Jo N. Hopper

Dated: ____

Dated:

EXHIBIT E TO DEFENDANTS' RESPONSE

Subject:

RE: FROM JAMES JENNINGS - Letter to Chris McNeill/Response to your email of 08-08-13

at 2:04 pm

From:

Christopher McNeill

Date

Tuesday, August 13, 2013 9:47 AM

То:

Jariet Elkins

CC:

jjennings@erhardjennings.com, ktomlinson@erhardjennings.com,

mgraham@thegrahamlawfirm.com, mmaf13@aol.com

Mr. Jennings,

My clients have selected group A for each of the wine and the golf clubs. Please advise how you would like to proceed.

Best regards,

Christopher M. McNeill

Block & Garden, LLP Sterling Plaza 5949 Sherry Lane, Suite 900 Dallas, TX 75225 Direct: 214-866-0994

Main: 214-866-0990 Facsimile: 214-866-0991

Website: http://www.bgvllp.com Email: mcneill@bgvllp.com

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Deposition Exhibits